

**FILED****DEC 24 2009**

**IN THE UNITED STATES DISTRICT COURT  
FOR NORTHERN DISTRICT OF WEST VIRGINIA  
CIVIL DIVISION**

TERESA L. DEPPNER, CLERK  
U.S. District Court  
Southern District of West Virginia

TERRY JONES, R.# 04492-007U.S. Medical Center F/BOPP.O.Box 4000Springfield, Missouri 65801Plaintiff/Petitioner(s).

-vs-

UNITED STATES OF AMERICAJOE DRIVER, HEAD WARDEN USPDefendant/Respondent(s).

Docket No. 2:09-1545  
(To be supplied by the Clerk)

☐ **CIVIL RIGHTS COMPLAINT**  
pursuant to 42 U.S.C. §1983  
(State Prisoner)

☒ **CIVIL RIGHTS COMPLAINT**  
pursuant to 28 U.S.C. §1331  
(Federal Prisoner)

☒ **CIVIL COMPLAINT**  
pursuant to the Federal Tort Claims  
Act, 28 U.S.C. §1346, 2671-2680

**I JURISDICTION: PURSUANT TO 28 U.S.C. §§ 1331&1343(3)(4); 1346&2671-4:  
and 28 U.S.C. 1367-SUPPLIMENT:**

A. Plaintiff's mailing address and/or register number and present place of confinement.

U.S. Medical Center F/BOP///P.O.Box 4000Springfield, Missouri 65801-4000

B. Defendant United States of America is employed as  
(Name of First Defendant)

Government of the U.S.A.

(Position/Title)

N/AN/A

At the time the claim(s) alleged in this complaint arose, was the defendant employed by the state, local or federal government?

Yes ( )

No ( )

N/A (X)

If your answer is "yes", briefly explain:

N/A

C. Defendant Joe Driver, Head warden-USP-Hazelton, is employed as  
(Name of Second Defendant)  
West Virginia, Chief warden; USP-Sky View Drive  
(Position/Title)  
with U.S. Government, Sky View Drive  
(Employer's Name and Address)  
Bruceton Mills, WV 26525

At the time the claim(s) alleged in this complaint arose, was the defendant employed by the state, local or federal government?

Yes (X) No ( )

If your answer is "yes", briefly explain:

Joe Driver was the Head Warden and chief policy maker  
for the USP-Hazelton, WV.

D. Using the outline of the form provided, include the above information for any additional defendant(s). There are additional medical staff Defendants  
but their names and addresses are not know at this time.

## II. PREVIOUS LAWSUITS

A. Have you begun any other lawsuits in state or federal court relating to your imprisonment?

Yes ( ) No (X)

B. If your answer to "A" is "yes", describe the lawsuit(s) in the space below. (If there is more than one (1) lawsuit, you must describe the additional lawsuits on another sheet of paper, using the same outline.) Failure to comply with this provision may result in summary denial of your complaint.

N/A

1. Parties to previous lawsuits:  
 Plaintiff(s) .....N/A.....  
 Defendant(s) N/A
2. Court (if Federal Court, name the District; if State Court, name the County)  
N/A
3. Docket number N/A
4. Name of Judge to whom case was assigned N/A
5. Type of case (for example: Was it a Habeas Corpus or Civil Rights action?)  
N/A
6. Disposition of case (for example: Was the case dismissed? Was it appealed? Is it still pending?)  
N/A
7. Approximate date of filing lawsuit N/A
8. Approximate date of disposition N/A

### III. GRIEVANCE PROCEDURE

- A. Is there a prisoner grievance procedure in the institution? Yes there is one
- B. Did you present the facts relating to your complaint in the prisoner grievance procedure?  
 Yes (X) No ( )
- C. If your answer is "yes",
  1. What steps did you take? Filed FTCA-Form and BP 8,9, 10,& 11. with the BOP staff to no avail at all.
  2. What was the result? Nothing happen at all. They were so indifferent to the Plaintiff' medical needs. See attached grievance forms
- D. If your answer is "no", explain why not. N/A/

E. If there is no prisoner grievance procedure in the institution, did you complaint to prison authorities? Yes (✓) No ( ) N/A

F. If your answer is "yes",  
1. What steps did you take? N/A

2. What was the result? N/A

G. If your answer is "no", explain why not. N/A

H. Attach copies of your request for an administrative remedy and the response(s) you received. If you cannot do so, explain why not: See Plaintiff's Exhibits attached attached hereto.

#### IV. STATEMENT OF CLAIM

State here, as briefly as possible, the FACTS of your case. State who, what, when, where and how you feel your constitutional rights were violated. Do not cite cases or statutes. If you choose to submit legal arguments or citations, you must do so in a separate memorandum of law. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. If your claims relate to prison disciplinary proceedings, attach copies of the disciplinary charges and any disciplinary hearing summary as exhibits.

Only two (2) extra pages (8½ x 11") are permitted, if necessary, to complete your statement of claim. Additionally, attach any relevant, supporting documentation.

##### JURISDICTION STATEMENT

[1] This redress involes a civil Rights violation and Eitht Amendment violations and on going medical-deliberate Indifference/Negligence under the Fifth and Fourteenth Amendments to the U.S. Constion, and also are pursuant to Title 28 U.S.C. §§1331, 1343; 1346; 1367; 2671 & 2674.

##### FACTUAL ALLEGATIONS

[2] On or about December 20th, 2007 Plaintiff was injued in USP Hazelton, West Virginia, while moving through the Cellblock "B-2" unit. Plaintiff sliped and fell on another inmates body/blood, (this inmate had been had been stabbed by several other inmates that had three other inmates that had been let into the unit by the Unit-Manager, Lee Masters. Once he let them in and they pulled out knives, he ran and locked hissself in where they could not get at him; and they were free to run through the unit stabbing people

at will). Thus the reason for the Plaintiff running through the Unit was to try and find a place of safety to get out of the reach of the stabbers, and thus he fell in the blood of one that had been stabbed.

[3] Now that is the beginning cause of the Plaintiff's medical problems. From this fall the Plaintiff experienced severe pain in his neck and back; and in no time, stiffness and numbing sensations in his legs, feet, neck and back, and his hands and arms also. These injuries were caused by the slip and fall but over time much of it became negligence and deliberate indifference to the Plaintiff's medical needs for the proper treatment.

[4] After the Plaintiff had fallen a staff person helped pick the Plaintiff up off the floor. The staff person then put the Plaintiff along with several other inmates in shower room and locked the door. Then some three days later the Plaintiff was allowed to see some medical personnel. They ordered him to be x-rayed and he was given a EKG. Once that was done, the doctor informed the complaintiff that the results showed no abnormalities.

[5] As the pain grew worst the Plaintiff started to have problems walking and moving his hands, arms and legs. Thus he complained more of his medical neglect, to no avail; for his complaints were outrightly denied. The Plaintiff requested an M.R.I. by that to was denied

[5] In November, 2008 the Plaintiff was transferred to the Oklahoma transport center at Oklahoma City, OK; and after five days in the transport center the Plaintiff was transferred to Tucson, Az.

[6] Once at tucson, AZ. the Plaintiff still did not get the proper treatment. His condition deteriorate until one day he just passed out in the rec yard. Plaintiff was then taken to a outside-community hospital and they determined that the Plaintiff need emergency surgery due to the three-slip dist in my neck. They also discovered that Plaintiff had slip dist in his back too. Now because of the lack of medical treatment at Hazelton, West Virginia for the injuries Plaintiff received when he slipped on the blood on the floor he developed high blood pressure and temporary kidney failure. That was what the Hazelton medical staff should have done in the first instance when Plaintiff complained about pains in his legs, hands, arms and body in general in the back and neck area.

[7] Thus the Defendants lack of proper medical at the time, which deteriorated over time was the approximate cause of the Plaintiff suffering and pain, and caused worssing medical condition.

[8] The Plaintiff because of his mistreatment at the hands of Hazelton medical and corectional staff,, he is almost parlyzed in his legs and hands; and is forced to move about with a walker-/stroller. Plaintiff is in constant pain; and his health has forever been changed because of the USP-Hazelton medical and correctional staff's actions or lack there off toward the Plaintiff.

V. REQUEST FOR RELIEF..

State exactly what you want the Court to do for you. If you are a state or federal prisoner, and seek relief which affects the fact or duration of your imprisonment (for example: illegal detention, restoration of good time, expungement of records or parole release), you must file your claim on a Habeas Corpus form, pursuant to 28 U.S.C. §2254, 28 U.S.C. §2255, or 28 U.S.C. §2241.

WHEREFORE, THE Plaintiff pray for judgment against the Defendants as follows:

[1] Compensatory damages in the amount of \$2,000,000.00 dollars

[2] For punitive damages in an amount of \$2,000,000.00 dollars

[3] For findings of fact based on the evidence at trial;

[4] For reasonable expenses, including court costs, litigational costs and attorney fees and costs.; and injunctive relief against nay harassment.

VI. JURY DEMAND (check one box below)

The plaintiff does ☒ does not ☐ request a trial by jury. (See Fed.R.Civ.P. 38.)

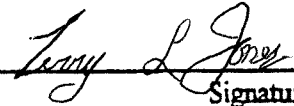
DECLARATION UNDER FEDERAL RULE OF CIVIL PROCEDURE 11

I, the undersigned, certify to the best of my knowledge, information, and belief, that this complaint is in full compliance with Rule 11(a) and 11(b) of the Federal Rules of Civil Procedure. The undersigned also recognizes that failure to comply with Rule 11(a) and (b) may result in sanctions, monetary or non-monetary, pursuant to Federal Rule of Civil Procedure 11(c).

The plaintiff hereby requests the Court issue all appropriate service and/or notices to the defendant(s).

Signed this 18 day of December, 2009.

The foregoing writ is affirmed according to law under the penalty of perjury, pursuant to 28 U.S.C. § 1746, on the above /s/ cited date.

  
 Signature of Plaintiff  
 Terry Jones.....04492-007  
 U.S. Medical Center F/BOP///P.O.Box 4000  
 Springfield, Missouri 65801-4000  
 \_\_\_\_\_  
 Signature of attorney, if any

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: SEPTEMBER 29, 2009

FROM: ADMINISTRATIVE REMEDY COORDINATOR  
CENTRAL OFFICE

TO : TERRY JONES, 04492-007  
SPRINGFIELD USMCFP UNT: MED/SURG QTR: V02-092L  
P.O. BOX 4000  
SPRINGFIELD, MO 65801

FOR THE REASONS LISTED BELOW, THIS CENTRAL OFFICE APPEAL  
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY  
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 548451-A1 CENTRAL OFFICE APPEAL  
DATE RECEIVED : SEPTEMBER 3, 2009  
SUBJECT 1 : ~~MEDICAL CARE - IMPROPER OR INADEQUATE~~  
SUBJECT 2 :  
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS  
(BP-09) MUST BE RECEIVED W/20 DAYS OF THE EVENT COMPLAINED  
ABOUT.

REMARKS : CONCUR THAT THIS APPEAL WAS RECEIVED UNTIMELY.  
YOUR MEDICAL CONDITIONS SHOULD BE ADDRESSED AT  
THE INSTITUTION LEVEL FIRST.





Federal Bureau of Prisons

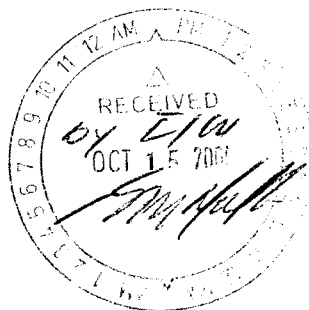
Type or use ball-point pen. If attachments are needed, submit four copies. One copy each of the completed BP-229(13) and BP-230(13), including any attachments must be submitted with this appeal.

From: JONES TERRY L. 04492-007 3-2 U.S.M.P.-F-P  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A - REASON FOR APPEAL

On or about December 20th-30th, 2007 I was experiencing severe neck and back pain, along with stiffness and a numbing sensation in my legs, feet, back arms and hands, which was caused by a slip and fall injury and another inmate's blood I sustained while at USP Hazelton. I immediately informed medical staff of my complaints and, therefore an EKG and X-ray was performed. The doctor informed me that the results showed no abnormalities. I continued warning medical staff complaining of pain, numbness, stiffness, and radiant pain throughout my entire body, and therefore requested a MRI. My request was outright denied. In November 2008, I was sent to Oklahoma transfer center with little to no medical treatment given to my indications. Therefore, in violation of my constitutional rights, due to medical neglect and Federal statutory rights, the request this BPO is that I be given \$200,000.00. 9-20-09 Terry Jones  
 DATE SIGNATURE OF REQUESTER

Part B - RESPONSE



Admitted to Prisoner's Union  
 Prisoners' Union

DATE

GENERAL COUNSEL

ORIGINAL: RETURN TO INMATE

CASE NUMBER: \_\_\_\_\_

Part C - RECEIPT

CASE NUMBER: \_\_\_\_\_

Return to: \_\_\_\_\_  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: \_\_\_\_\_

DATE

SIGNATURE OF RECIPIENT OF CENTRAL OFFICE APPEAL



REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: AUGUST 6, 2009

*for m. fields*  
FROM: ADMINISTRATIVE REMEDY COORDINATOR  
NORTH CENTRAL REGIONAL OFFICE

TO : TERRY JONES, 04492-007  
SPRINGFIELD USMCFP UNT: MED/SURG QTR: N02-062L  
P.O. BOX 4000  
SPRINGFIELD, MO 65801

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL  
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY  
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 548451-R1 REGIONAL APPEAL  
DATE RECEIVED : AUGUST 3, 2009  
SUBJECT 1 : MEDICAL CARE - IMPROPER OR INADEQUATE  
SUBJECT 2 :  
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS  
(BP-09) MUST BE RECEIVED W/20 DAYS OF THE EVENT COMPLAINED  
ABOUT.

REMARKS : HAZELTON HE SLIPPED & FELL & WAS EXPERIENCING SEVERE  
NECK & BACK PAIN. HE WAS DENIED AN MRI.

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: JONES, TERRY L. 04492-007 3-2 USMCFP-SPRG.  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

**Part A - REASON FOR APPEAL** On or about December 20-30, 2007, I was experiencing severe neck and back pain, along with stiffness and a numbing sensation in my legs, feet, neck, back, arms and hands, which was caused by a slip and fall injury on another inmate's blood I sustained while at USP Hazelton. I immediately informed medical staff of my complaints and, therefore an EKG and Xray was performed. The doctor informed me that the results showed no abnormalities. I continued writing medical staff complaining of pain, numbness, stiffness and radiant pain throughout my entire body, and therefore requested a MRI. My request was outright denied. In November 2008, I was sent to Oklahoma transfer center with little to no medical treatment given to my indications.

Therefore, in violation of my constitutional rights, due to medical neglect and federal statutory rights, the request of this BP10 is that I be given... 2,000,000.00.

Respectfully Submitted,

7-28-09  
 DATE

Terry Jones  
 SIGNATURE OF REQUESTER

**Part B - RESPONSE**

RECEIVED  
 AUG - 3 2009

BY:.....

\_\_\_\_\_  
 DATE REGIONAL DIRECTOR  
 If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.  
 ORIGINAL: RETURN TO INMATE CASE NUMBER: 548451-R1

**Part C - RECEIPT**

\_\_\_\_\_  
 CASE NUMBER: \_\_\_\_\_  
 Return to: \_\_\_\_\_  
 LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION  
 SUBJECT: \_\_\_\_\_

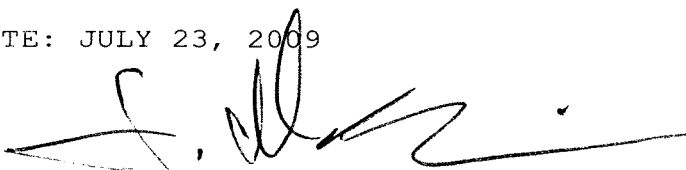
\_\_\_\_\_  
 DATE

\_\_\_\_\_  
 SIGNATURE, RECIPIENT OF REGIONAL APPEAL



REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: JULY 23, 2009

  
FROM: ADMINISTRATIVE REMEDY COORDINATOR  
SPRINGFIELD USMCFP

TO : TERRY JONES, 04492-007  
SPRINGFIELD USMCFP UNT: MED/SURG QTR: N02-062L  
P.O. BOX 4000  
SPRINGFIELD, MO 65801

FOR THE REASONS LISTED BELOW, THIS ADMINISTRATIVE REMEDY REQUEST  
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY  
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDY ID : 548451-F1 ADMINISTRATIVE REMEDY REQUEST  
DATE RECEIVED : JULY 22, 2009  
SUBJECT 1 : MEDICAL CARE - IMPROPER OR INADEQUATE  
SUBJECT 2 :  
INCIDENT RPT NO:

REJECT REASON 1: YOUR REQUEST IS UNTIMELY. INSTITUTION AND CCC REQUESTS  
(BP-09) MUST BE RECEIVED W/20 DAYS OF THE EVENT COMPLAINED  
ABOUT.

REMARKS : HAZELTON HE SLIPPED & FELL & WAS EXPERIENCING SEVERE  
NECK & BACK PAIN. HE WAS DENIED AN MRI.

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: JONES, TERRY L. 04492-007 3-2 USMCFP-SPG  
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

Part A- INMATE REQUEST On or about December 20-30, 2007 I was experiencing severe neck and back pain, along with stiffness and a numbing sensation in my legs, feet, neck, back, arms and hands, which was caused by a slip and fall injury on another inmate's blood I sustained while at USP Hazelton. I immediately informed medical staff of my complaints and, therefore an EKG and Xray was performed. The doctor informed me that the results showed no abnormalities. I continued writing medical staff complain[ing] of pain, numbness, stiffness and radiant pain throughout my entire body, and therefore requested a MRI. My request was outright denied. In November 2008, I was sent to Oklahoma transfer center with little to no medical treatment given to my indications.

Therefore, in violation of my constitutional rights, due to medical neglect and federal statutory rights, the request of this Bp9 is that I be given \$2,000,000.00.

Respectfully Submitted,

*Terry Jones #04492-007*

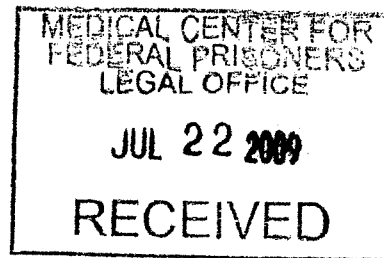
7-20-09

DATE

*Terry Jones*

SIGNATURE OF REQUESTER

Part B- RESPONSE



DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 548451-F1

CASE NUMBER: \_\_\_\_\_

Part C- RECEIPT

Return to: \_\_\_\_\_  
LAST NAME, FIRST, MIDDLE INITIAL REG. NO. UNIT INSTITUTION

SUBJECT: \_\_\_\_\_

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)



U.S. MEDICAL CENTER FOR FEDERAL PRISONERS  
SPRINGFIELD, MISSOURIAdministrative Remedy System  
Informal Resolution Form

**NOTICE TO INMATE/PATIENT:** You are advised that prior to filing a Request for Administrative Remedy Form (BP-9), you **MUST** attempt to informally resolve your complaint through your Correctional Counselor. Please follow the three (3) steps listed below:

1. State below your specific complaint.
2. State below what efforts you have made to resolve your complaint informally.
3. State below what action or resolution you expect.

On or about December 20-30, 2007 I was experiencing severe neck and back pain, along with stiffness and a numbing sensation in my legs, feet, neck, back arms and hands, which was caused by a slip and fall injury on another inmate's blood I sustained while at USP Hazelton. I immediately informed (See Attachment)

*Terry Jones*  
*Terry Jones*  
Signature

04492-007  
Reg. No.

1-5-09  
Date

Correctional Counselor's Comments (Including actual steps taken to resolve).

*This issue can not be resolved at this level*

*[Signature]*  
Counselor's Signature

7/16/09  
Date

## Distribution:

- I. If complaint is informally resolved, forward original to the **Administrative Remedy Coordinator**.
- II. If complaint is **NOT** informally resolved, forward original attached to BP-9 Form to the **Administrative Remedy Coordinator**.

III.

Form Returned To Counselor	BP-9 Given To Inmate	BP-9 Returned To Counselor	BP-9 Delivered To Atty Advisor

Date *7/16/09* *7/17/09*  
Time  
Counselor *[Signature]* *[Signature]*

CERTIFICATE OF SERVICE

I, Terry Jones, Plaintiff, hereby certify that

I have served a true and correct copy of the foregoing Writ on the  
below:

[a.] Mr. Eric Holder, Attorney General of the United States, at  
U.S. Department of Justice  
10th & Constitution Avenue, N.W.  
Washington, D.C. 20510

[b.] One original and two copies to the Clerk of the Court at,  
United states District for the Northern District of West Virginia  
PostOffice Box 1518///U.S. Courthouse  
Elkins, West Virginia 26241

Which is deemed filed at the time it was delivered to  
prison authorites for forwarding, SEE: HOUSTON -V- LACK, 101 L.Ed.2d 245(1988)  
Upon the defendant/ defendant and his attorney/ attorney of record, by place-  
ing and/or the same in the United States Maile Box at the Facility provided  
for legal mail/Court Mail...on this 18th day of december, 2009..

The above stated is affirmed by the undersigned under  
and pursuant to 28 U.S.C. § 1746., Under the penalty of perjury.

/s/

Mr. Terry Jones , Plaintiff

Reg.# 04492-007

United States Medical Cent F/BOP

P.O.Box 4000

Springfield, Missouri 65801-4000

CC:Files



